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6 **UNITED STATES DISTRICT COURT**  
7 **DISTRICT OF NEVADA**  
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9 DALE EUGENE HOLCOMB,

10 Petitioner,

11 vs.

12 ANTHONY M. SCILLIA, et al.,

13 Respondents.

Case No. 2:10-CV-02015-PMP-(RJJ)

**ORDER**

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15 Petitioner has submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C.  
16 § 2254 (#1). The court has reviewed it pursuant to Rule 4 of the Rules Governing Section 2254  
17 Cases in the United States District Courts, and the court will serve the petition upon respondents for  
18 a response.

19 Petitioner has submitted a motion for appointment of counsel (#2). Whenever the  
20 Court determines that the interests of justice so require, counsel may be appointed to any financially  
21 eligible person who is seeking habeas corpus relief. 18 U.S.C. § 3006A(a)(2)(B). “[T]he district  
22 court must evaluate the likelihood of success on the merits as well as the ability of the petitioner to  
23 articulate his claims pro se in light of the complexity of the legal issues involved.” Weygandt v.  
24 Look, 718 F.2d 952 (9th Cir. 1983). There is no constitutional right to counsel in federal habeas  
25 proceedings. McCleskey v. Zant, 499 U.S. 467, 495 (1991). The factors to consider are not  
26 separate from the underlying claims, but are intrinsically enmeshed with them. Weygandt, 718 F.2d  
27 at 954. After reviewing the petition, the court finds that appointment of counsel is not warranted.  
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1 Petitioner has submitted an application to proceed in forma pauperis (#3). The  
2 application is moot because petitioner has paid the filing fee.

3 IT IS THEREFORE ORDERED that the motion for appointment of counsel (#2) is  
4 **DENIED**.

5 IT IS FURTHER ORDERED that the application to proceed in forma pauperis (#3)  
6 is **DENIED** as moot.

7 IT IS FURTHER ORDERED that the clerk shall electronically serve upon  
8 respondents a copy of the petition (#1). In addition, the clerk shall return to petitioner a copy of the  
9 petition (#1).

10 IT IS FURTHER ORDERED that respondents shall have forty-five (45) days from  
11 the date on which the petition was served to answer or otherwise respond to the petition (#1). If  
12 respondents file and serve an answer, then they shall comply with Rule 5 of the Rules Governing  
13 Section 2254 Cases in the United States District Courts, and then petitioner shall have forty-five  
14 (45) days from the date on which the answer is served to file a reply.

15 IT IS FURTHER ORDERED that henceforth, petitioner shall serve upon  
16 respondents or, if appearance has been entered by counsel, upon the attorney(s), a copy of every  
17 pleading, motion or other document submitted for consideration by the court. Petitioner shall  
18 include with the original paper submitted for filing a certificate stating the date that a true and  
19 correct copy of the document was mailed to the respondents or counsel for the respondents. The  
20 court may disregard any paper received by a district judge or magistrate judge that has not been  
21 filed with the clerk, and any paper received by a district judge, magistrate judge, or the clerk that  
22 fails to include a certificate of service.

23 DATED: January 19, 2011.

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26 PHILIP M. PRO  
27 United States District Judge  
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